



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,348	12/15/2000	Raymond Anthony Joao	RJ171	8508

7590 09/20/2006
RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS, NY 10703

EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/737,348		JOAO, RAYMOND ANTHONY	
	Examiner		Art Unit	
	Luke Gilligan		3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-35 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-35 and 41-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3626

Response to Amendment

1. In the amendment filed 6/19/06, the following has occurred: claims 21, 26, and 32 have been amended, claims 36-40 have been canceled and claims 41-45 have been added. Now, claims 21-35 and 41-45 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-22, 24, 26-27, and 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Provost et al., U.S. Patent No. 6,341,265.

4. As per claim 21, Boyer teaches an apparatus, comprising: at least one of an input device for inputting, information regarding an individual and a receiver for automatically receiving information regarding an individual, wherein the information regarding an individual contains information regarding at least one of a diagnosis and a treatment plan (see column 13, lines 18-24); a processing device, wherein the processing device processes the information regarding an individual and at least one of stores the information regarding an individual in a database or a memory device and updates a healthcare record associated with the individual (see column 8, lines 56-67), and further wherein the processing device automatically generates an insurance claim (see column 13, lines 25-30); and a transmitter for automatically transmitting the insurance claim to a computer or a communication device associated with a healthcare insurer or a healthcare payer (see column 14, lines 4-10).

Art Unit: 3626

5. Boyer does not explicitly teach that the processing device automatically generates information regarding an insurance claim, wherein the information regarding an insurance claim is suitable for being automatically submitted to a healthcare insurer or a healthcare payer.

Provost teaches a processing device automatically generates information regarding an insurance claim, wherein the information regarding an insurance claim is suitable for being automatically submitted to a healthcare insurer or a healthcare payer (see column 9, lines 24-30). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the insurance claim generation and submission processing described in Boyer. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of enhancing the efficiency of the claims creation and submission process in Boyer (see column 9, lines 27-30 of Provost).

6. As per claim 22, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding a symptom or an examination finding regarding the individual, and further wherein the processing device generates a diagnostic report containing information regarding a diagnosis or a list of possible diagnoses (see column 13, lines 42-49).

7. As per claim 24, Boyer in view of Provost teaches the apparatus of claim 22 as described above. Boyer further teaches the processing device generates a treatment report containing information regarding a treatment for the diagnosis or each diagnosis in the list of possible diagnoses (see column 13, lines 42-49).

8. As per claim 26, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding at least one of a treatment associated with the diagnosis and a procedure associated with the diagnosis (see column 8, lines 56-67).

Art Unit: 3626

9. As per claim 27, Boyer in view of Provost teaches the apparatus of claim 22 as described above. Boyer further teaches the diagnostic report contains information regarding at least one of a misdiagnosis, a treatment success, and a treatment failure (see column 8, lines 56-67, the Examiner considers information regarding past patient treatments, as disclosed by Boyer, to encompass at least information regarding a treatment success).

10. As per claim 29, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding at least one of a treatment to be administered to the individual and a procedure to be performed on the individual, and further wherein the processing device determines whether the at least one of a treatment to be administered to the individual and a procedure to be performed on the individual is correct or incorrect (see column 13, lines 42-49, the Examiner considers the degree to which a treatment is covered under a patient's profile to be an indication of whether the treatment is correct or incorrect), wherein the processing device generates a treatment response message containing information regarding whether the at least one of a treatment to be administered to the individual and a procedure to be performed on the individual is correct or incorrect, wherein the apparatus transmits the treatment response message to at least one of a computer and a communication device associated with a healthcare provider or healthcare facility (see column 13, lines 42-49).

11. As per claim 30, Boyer in view of Provost teaches the apparatus of claim 29 as described above. Boyer further teaches the treatment response message contains information regarding at least one of a treatment, a procedure, treatment instructions, procedure instructions, treatment steps, and procedure steps (see column 13, lines 42-49).

12. As per claim 31, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the insurance claim contains information obtained with

Art Unit: 3626

at least one of the listed devices (see Figure 6, it is noted that various items, such as "COLLECT VENOUS BLOOD," RHYTH ECG, TRACE," etc. require such devices).

13. As per claim 32, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the information regarding the individual is transmitted to the processing device on or over at least one of the Internet and the World Wide Web (see column 12, lines 49-56).

14. As per claim 33, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches a database, wherein the database contains healthcare records or medical histories associated with a plurality of individuals (see column 8, lines 56-67).

15. As per claim 34, Boyer in view of Provost teaches the apparatus of claim 21 as described above, wherein the processing device processes information for scheduling an appointment with a healthcare provider (see column 12, lines 6-19).

16. As per claim 35, Boyer in view of Provost teaches the apparatus of claim 21 as described above. Boyer further teaches the apparatus detects an occurrence of an event for which a healthcare provider is to be notified, wherein the processing device generates a notification message, and further wherein the apparatus transmits the notification message to a computer or a communication device associated with the healthcare provider in real-time (see column 13, lines 18-28, the healthcare provider is notified of the patient's coverage profile).

17. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Provost et al., U.S. Patent No. 6,341,265 and further in view of Rosenfeld et al., U.S. Patent No. 6,804,656.

Art Unit: 3626

18. As per claim 23, Boyer in view of Provost teaches the apparatus of claim 22 as described above. Boyer does not explicitly teach the diagnostic report contains information regarding at least one of a probability of occurrence and statistical information regarding the diagnosis or each diagnosis in the list of possible diagnoses. However, Rosenfeld teaches an apparatus that derives a probability of occurrence with respect to possible diagnoses (see column 43, lines 11-27). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of providing a high level of standardized care (see column 4, lines 28-29 or Rosenfeld).

19. As per claim 25, Boyer in view of Provost teaches the apparatus of claim 24 as described above. Boyer does not explicitly teach generating a treatment report in conjunction with information regarding a drug interaction and a treatment interaction. However, Rosenfeld teaches generating a treatment report in conjunction with information regarding a drug interaction and a treatment interaction (see column 23, line 57 – column 24, line 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of reducing the occurrence of adverse events (see column 4, lines 26-27 of Rosenfeld).

20. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Provost et al., U.S. Patent No. 6,341,265 and further in view of Sun et al., U.S. Patent No. 6,273,856.

21. As per claim 28, Boyer in view of Provost teaches the apparatus of claim 24 as described above. Boyer does not explicitly teach the treatment report contains information

Art Unit: 3626

regarding at least one of an herbal remedy or treatment, a self-healing remedy or treatment, and an exercise remedy or treatment. However, Sun teaches a treatment report containing at least an exercise remedy or treatment (see column 6, lines 23-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of providing enhanced care to patients with pacemakers (see column 1, lines 48-53 of Sun).

22. Claims 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Provost et al., U.S. Patent No. 6,341,265 and further in view of DiRienzo et al., U.S. Patent No. 6,076,066.

23. As per claims 41-45, Boyer in view of Provost teaches the apparatus of claim 21. Boyer does not explicitly teach that information regarding an individual contains a digital x-ray file, a digital MRI file, a digital CAT scan file, video information or image, and audio information and an image. However, DiRienzo teaches a system for automated insurance claims processing that includes the feature of attaching information regarding an individual to insurance claims that includes a digital x-ray file, a digital MRI file, a digital CAT scan file, video information or image, and audio information and an image (see column 11, lines 13-30). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of further reducing the need for hard copy attachments in conjunction with the electronic filing of insurance claims (see column 7, line 59 – column 8, line 3 of DiRienzo).

Response to Arguments

24. In the remarks filed 6/19/06, Applicant argues in substance that the amendments to claim 21 distinguish over the Boyer reference. In response to Applicant's argument, the Examiner respectfully submits that a new grounds of rejection have been applied, in view of Provost, in response to the Amendments. Therefore, it is submitted that the arguments with respect to the previous grounds of rejection are now moot in view of the new grounds of rejection detailed above.

Conclusion

25. Applicant's amendment to claim 21, indicating that the processing device automatically generates information regarding an insurance claim that is suitable for being automatically submitted to a healthcare insurer or a healthcare payer, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3626

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/15/06


C. LUKE GILLIGAN
PATENT EXAMINER